

IC 5-10.3-6

Chapter 6. Participation by Political Subdivisions

IC 5-10.3-6-1

Admission to fund

Sec. 1. (a) By ordinance or resolution of the governing body specifying by departmental, occupational, or other definable classification the employees who will become members of the fund, a political subdivision may become a participant in the fund if the ordinance or resolution is filed with and approved by the board.

(b) A governing body may include in its ordinance or resolution adopted under subsection (a) a determination of the date from which prior service for its employees will be computed. Creditable service for these employees is determined under IC 5-10.3-7-7.5.

(c) The effective date of participation is the earlier of January 1 or July 1 after the date of approval. However, no retirement benefit may be paid until six (6) months after the effective date of participation.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.60-1987, SEC.1.

IC 5-10.3-6-1.5

Authorized agent in third class city or town

Sec. 1.5. (a) This section applies to a third class city or a town.

(b) The clerk-treasurer of a city or town is that city's or town's authorized agent for all matters concerning the fund.

As added by P.L.69-1995, SEC.1.

IC 5-10.3-6-2

Preliminary survey

Sec. 2. Preliminary Survey. The governing body may request a preliminary survey, at its expense, to determine the estimated cost of participation. The board and its actuary shall give an estimate of the costs, the benefits, and other appropriate information. However, a governing body of a unit that is participating in the fund is not required to request a survey, and the board and its actuary are not required to give an estimate, when:

(1) the unit adopts a resolution or ordinance providing that additional classifications of employees will become members of the fund; and

(2) the actuary for the fund finds there would be no material change in the current or continued employer contribution rate for that unit because of the additional classification.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.246-2001, SEC.10.

IC 5-10.3-6-3

Powers of governing body

Sec. 3. Powers of the Governing Body. After a political subdivision becomes a participant, its governing body may make

appropriations, make payments, and do all things required by this article.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-4

Accounts

Sec. 4. Accounts. The board shall maintain separate accounts for each political subdivision. Credits and charges to these accounts shall be made as prescribed in IC 5-10.2-2.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-5

Payments to fund

Sec. 5. (a) Annually the board shall certify to each participating political subdivision its employer contribution rate to the fund, computed as specified in IC 5-10.2-2, including its share of administration expenses.

(b) The board shall determine the amount of unfunded accrued liability of the political subdivision on the effective date of participation. The political subdivision shall pay the amount in a lump sum or elect to amortize the amount over a period determined by the board.

(c) The payments by the participating political subdivisions for the amounts in subsections (a), (b), and (d) are allocated to the political subdivision and not to the state.

(d) If a political subdivision's account shows a deficit, the board may require the political subdivision to make additional payments necessary to eliminate the deficit, in addition to the employer contributions computed under subsections (a) and (b).

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.47-1985, SEC.6; P.L.54-1993, SEC.12.

IC 5-10.3-6-6

Appropriations and payments by school corporations

Sec. 6. Appropriations and Payments by School Corporations. A school corporation shall make the appropriations and payments required of participating political subdivisions from its general fund.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-7

Collection of payments

Sec. 7. Collection of Payments. If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund or recovered in a suit in the circuit or superior court of the county in which the political subdivision is located, which suit shall be an action by the state on the relation of the board, prosecuted by the attorney general. If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5,

the auditor of state shall withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision and shall transfer the penalty to the fund.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.195-1999, SEC.20.

IC 5-10.3-6-8

Withdrawal of political subdivision

Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

- (1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.
- (2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.
- (3) Stop the political subdivision's participation in the fund by:
 - (A) selling all of the political subdivision's assets; or
 - (B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

- (1) The withdrawing political subdivision has provided written notice of the following to the board:
 - (A) The withdrawing political subdivision's intent to cease participation.
 - (B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.
- (2) The expiration of:
 - (A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or
 - (B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments

determined by the board.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny a political subdivision permission to withdraw if the denial is necessary to achieve compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984, SEC.5; P.L.22-1993, SEC.4.

IC 5-10.3-6-8.5

Certain state university employees involved in health care

Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state university must be made in a lump sum or in a series of payments determined by the board.

(d) A member who is covered by subsection (c) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(e) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by P.L.38-1996, SEC.1.

IC 5-10.3-6-9

Participation of political subdivision with retirement system

Sec. 9. Participation of Political Subdivision with Retirement Systems. If a political subdivision has a retirement system for its employees, it must conduct a referendum, at which seventy-five percent (75%) of all active and retired members vote for participation, before it may follow the procedures in this chapter for participation.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-10

Transfer of assets

Sec. 10. Transfer of Assets. (a) If a political subdivision with a retirement system becomes a participant, the moneys and securities in the retirement system shall be transferred to the fund. If the securities to be transferred are not acceptable to the board, they shall be converted to cash, which shall be transferred to the fund.

(b) Moneys received by the fund shall first be applied to set up a

reserve equal to the present value of benefits payable to retired members. The excess of the moneys shall be used to offset the charge to the political subdivision for unfunded accrued liability for active members.

(c) If there are insufficient funds for the reserve required in subsection (b) of this section, then the political subdivision shall pay the fund, either in a single payment or in installment payments approved by the board, the amount needed to establish the reserve. If the political subdivision is unable to make any payment, the board may reduce proportionately each benefit payable to retired members.

(d) The liabilities of a retirement system which is transferred to the fund are not liabilities of the fund, except as provided by agreement between the fund and the political subdivision.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-11 Repealed

(Repealed by P.L.16-1986, SEC.85.)